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TAGS: [CVIS](#) [PTER](#) [KCRM](#) [PREL](#) [EUN](#) [AU](#)
SUBJECT: AUSTRIAN INTERIOR AND FOREIGN MINISTRIES ON VISA
WAIVER PROGRAM MOU AND RELATED AGREEMENTS

Classified By: Econ/Pol Counselor Dean Yap. Reason: 1.4(b) and (d)

¶1. (C) Summary. Emboffs met June 26 and July 3 with Austrian Interior and Foreign Ministry officials to discuss the proposed U.S.-Austria VWP MoU and related agreements. The Interior Ministry welcomed the idea of a MoU as clarifying the extent of U.S.-Austria cooperation and facilitating their efforts within the Austrian interagency process to gain support for more extensive data sharing and other cooperative steps. The Foreign Ministry welcomed the exchange and information, but was cautious and concluded that, until the U.S. and EU as a whole reach agreement on data privacy issues and other VWP-related matters, it would probably not be possible to open official talks on the MoU or formally conclude related agreements. However, opportunities for useful dialogue with the Interior Ministry remain open. End Summary.

Interior Ministry

¶2. (C) VWP MoU: In a June 26 meeting, MoI Bi- and Multilateral Affairs Office Director Kurt Hager averred that, from a purely Interior Ministry perspective, the MoU (which he preferred to term a "letter of intent," could be a positive move, insofar as it would make clear to the political leadership and parliament what the U.S.-Austria security data exchange agenda would entail. He acknowledged that any text would have to leave open the possibility of further measures in the future, but having all current elements set forth in a coherent fashion in one document would be helpful. That said, Hager noted that the MoU would have to be an interagency matter and any negotiation would, in fact, be led by the MFA because of the link to the VWP. (The Austrian MFA leads an interagency working group on the VWP that includes mainly MoI and the Chancellor's office, but also the Ministry of Justice and other agencies.) Hager thought there was some concern in the MFA about the draft MoU because of uncertainty about how it related to the EU's competencies and because new VWP requirements could be problematic for Austria's status in the VWP.

¶3. (C) HSPD-6: Hager was aware of the early 2007 U.S.-Austria exchanges on an HSPD-6 agreement, and noted that because of data privacy concerns it had been shelved in the GoA. He also reported that any agreement for such data exchanges would have to be legally binding, and asked that an updated draft text be provided. Hager noted in particular, that it would be important that the data protection provisions were the same as both U.S.-EU agreements and the terms of the U.S.-Austria "Pruem-like" agreement. Note: Embassy has subsequently received a draft non-binding HSPD-6 agreement and is awaiting receipt of a binding variant.

¶4. (C) Pruem-Like Agreement: Noting that informal discussion between the Interior Ministry and DHS had led

to near agreement on the draft text, Hager asked that DHS provide at least an unofficial clearance on the text provided by the Ministry to DHS. This would allow the Interior Ministry to begin the inter-agency review process in Austria, the first step toward concluding the agreement.

15. (C) Lost and Stolen Passports: Hager believes that Austria is compliant with U.S. desires in this area, except for the provisions on "real time" assistance in clarifying the status of questionable documents. MoI has been told that existing Austrian law would not allow this. If an essential item for the U.S., Hager asked that the USG consider ways to add this issue into either the Pruem-like or HSPD-6 texts, both of which will require parliamentary ratification and thus carry the force of law. Otherwise, the U.S. and Austria would have to begin work on a third agreement.

16. (C) Upcoming Visits: On the margins of DHS A/S Baker's visit to Vienna July 17-18, Hager asked for an opportunity to meet with DHS Dep. Director for European Relations Scardaville. Hager also agreed to inquire about the possibility of a bilateral meeting between A/S Baker and the Interior Minister. (Note: Maria Fekter was appointed Interior Minister on July 2, succeeding Guenther Platter.)

Foreign Ministry

17. (C) In a July 3 meeting, also attended by Interior's Hager, Econ/Pol Counselor outlined the provisions of the VWP Reform law and the terms of the VWP MoU for A/S-equivalent

Andrea Ikic-Boehm, chief of the consular affairs unit, one of her desk officers, and Ulla Krauss-Nussbaumer, from the MFA's EU law office. Ikic-Boehm was very appreciative of the briefing, asking for clarification on a number of points.

She and her colleagues noted as well that it would be very useful to have a revised draft MoU that was tailored specifically for Austria, given that the present draft contains many provisions either not relevant to, or already undertaken by, Austria. At the conclusion of the briefing, she explained that Austria was awaiting conclusion of U.S.-EU consultations on "the February draft MoU," which she described as having mixed EC, EU, and member state competencies. (Ikic-Boehm was apparently referring to U.S.-EU negotiations on the terms for accession of new members to the VWP, which (we presume) would have included discussion of the VWP MoU. However, she also referred to the separate U.S.-EU negotiations on data privacy/data protection as a matter also requiring resolution.) Only after these U.S.-EU/EC matters are resolved, she said, would Austria be able to consider negotiation or conclusion of a bilateral MoU or other agreements.

18. (C) Econ/Pol Counselor inquired as to whether it would be possible to open negotiations on agreements -- HSPD-6 and Pruem-like which are clearly within the scope of national competence. MoI's Hager pointed out that these agreements would also contain data protection provisions and that these should be the same as those negotiated between the EU and U.S. Ikic-Boehm concurred. She also said that a revised VWP MoU, tailored for Austria, would be useful once U.S.-EU negotiations are concluded, not before.

Comment

19. (C) Ikic-Boehm's comments do not augur well for an early conclusion to the formal process of negotiating a VWP MOU, HSPD-6, or Pruem-like agreement with Austria. However, post understands that in the case of the latter two agreements, C-175 authority for formal negotiations has not yet been granted. In the meantime, and also pending resolution of U.S.-EU discussions on the VWP and data privacy, the Interior Ministry's strong interest in both provides the opportunity for informal consultations on both. During his

visit in particular, DHS A/S Baker may wish to raise the status of the Pruem-like agreement. Embassy Vienna also sees in the visit a good opportunity to raised other issues arising from the VWP MoU - notably on lost and stolen passports and the exchange of PNR data on persons on third party flights - which have not yet been fully briefed to the Interior Ministry. End Comment.

Girard-diCarlo